

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Bill Emory Thompson

Case Number: 20-02128

vs.

Respondent
LPL Financial LLC

Hearing Site: Oklahoma City, Oklahoma

Awards are rendered by independent arbitrators who are chosen by the parties to issue final, binding decisions. FINRA makes available an arbitration forum—pursuant to rules approved by the SEC—but has no part in deciding the award.

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant Bill Emory Thompson (“Claimant”): Michael O’Gara, Esq. and Dochter Kennedy, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent LPL Financial LLC (“Respondent”): Sara B. Davis, Esq., LPL Financial LLC, Boston, Massachusetts.

CASE INFORMATION

Statement of Claim filed on or about: July 7, 2020.
Claimant signed the Submission Agreement: July 6, 2020.

Statement of Answer filed on or about: August 26, 2020.
Respondent signed the Submission Agreement: July 13, 2020.

CASE SUMMARY

In the Statement of Claim, Claimant asserted a claim seeking expungement of customer dispute information from registration records maintained by the Central Registration Depository (“CRD”).

In the Statement of Answer, Respondent did not oppose Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Number 1457986 and Occurrence Number 1493009, an award of compensatory damages in the amount of \$1.00, and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent did not request any relief.

At the hearing, Claimant withdrew the request for \$1.00 in compensatory damages.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

On December 15, 2020, Claimant filed an obituary and death record for one of the two owners of the entity that was the customer in both Occurrence Number 1457986 and Occurrence Number 1493009 ("JC"). On December 15, 2020, Claimant advised that the surviving owner of the customer in both Occurrence Number 1457986 and Occurrence Number 1493009 ("SB") was served with the Statement of Claim and notice of the date and time of the expungement hearing ("Notice"). On December 22, 2020, Claimant filed an Affidavit confirming that SB was served with the Notice. Claimant also filed a copy of the FedEx tracking information available online for the Notice.

The Arbitrator conducted a recorded, telephonic hearing on February 9, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing and, as stated in the Statement of Answer, did not oppose the request for expungement.

SB did not participate in the expungement hearing. The Arbitrator found that SB had notice of the expungement request and hearing.

The Arbitrator reviewed Claimant's BrokerCheck® Report. The Arbitrator noted that a prior arbitration panel or court did not previously rule on expungement of the same occurrences in the CRD.

The Arbitrator also reviewed the settlement documentation related to Occurrence Number 1493009, considered the amount of payment made to any party to the settlement, and considered other relevant terms and conditions of the settlement. The Arbitrator noted that the settlement was not conditioned on any party to the settlement not opposing the expungement request and that Claimant contributed to the settlement amount. The Arbitrator noted that the settlement was entered into due to the desire to settle any and all disputes between the parties and to avoid the potential expenses of proceeding with the arbitration.

The Arbitrator noted that the dispute related to Occurrence Number 1457986 was not settled and, therefore, there was no settlement document to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's Exhibits 1-6, Claimant's BrokerCheck® Report, the Notice, Obituary of JC, Affidavit of Claimant, underlying Statement of Claim for Occurrence Number 1493009, and Claimant's testimony.

AWARD

After considering the pleadings, the testimony and evidence presented at the expungement hearing, and any post-hearing submissions, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. The Arbitrator recommends the expungement of all references to Occurrence Numbers 1457986 and 1493009 from registration records maintained by the CRD for Claimant Bill Emory Thompson (CRD Number 4506880) with the understanding that, pursuant to Notice to Members 04-16, Claimant Bill Emory Thompson must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by FINRA, parties seeking judicial confirmation of an arbitration award containing expungement relief must name FINRA as an additional party and serve FINRA with all appropriate documents.

Pursuant to Rule 13805 of the Code of Arbitration Procedure ("Code"), the Arbitrator has made the following Rule 2080 affirmative findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous; and

The claim, allegation, or information is false.

The Arbitrator has made the above Rule 2080 findings based on the following reasons:

In February of 2008, the customer opened an account with Respondent. Claimant met with JC and SB, who were experienced investors and business professionals. They advised Claimant that they desired to invest approximately \$200,000.00 on behalf of the customer. Claimant conducted fact-finding with them to ascertain what recommendations might best suit the customer's needs, goals, objectives, and time horizon. After reviewing options, JC and SB decided to invest \$100,000.00 in Lehman Brothers Bonds. Claimant believed the investment recommendation was suitable and appropriate given the customer's stated investment goals, objectives, risk tolerance, and time horizon. Claimant explained the risks, costs, and fees of the investment to JC and SB. Both acknowledged that they understood the risks of the investment. At the time of the investment, Claimant was confident that this was a good investment for the customer. At the time, the investment carried very favorable industry ratings. After the investment, Claimant continued to communicate with JC and SB regularly. The value of the customer's account declined shortly after the investment was made. After researching the situation, Claimant still believed this was a good investment and that maintaining the position was a reasonable and appropriate approach for the customer. However, in September of 2008, Lehman Brothers filed for bankruptcy protection.

The Arbitrator is confident that the customer's representatives had full knowledge and understating of the transactions with Claimant. Claimant personally discussed the investment with JC and SB, and they were fully informed of the nature of the transaction, the costs, and the risks involved. After

a review of the evidence and the testimony presented, the Arbitrator has determined that the underlying claim, allegation, or information regarding Claimant is clearly erroneous and false.

2. Any and all claims for relief not specifically addressed herein are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

FINRA Dispute Resolution Services assessed a filing fee* for each claim:

Initial Claim Filing Fee = \$ 50.00

**The filing fee is made up of a non-refundable and a refundable portion.*

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

Member Surcharge Fee = \$ 150.00

Hearing Session Fees and Assessments

The Arbitrator has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the Arbitrator, including a pre-hearing conference with the Arbitrator, which lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session @ \$50.00/session = \$ 50.00
Pre-Hearing Conference: October 28, 2020 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing: February 9, 2021 1 session

Total Hearing Session Fees = \$ 100.00

The Arbitrator has assessed the total hearing session fees to Claimant.

All balances are payable to FINRA Dispute Resolution Services and are due upon receipt.

ARBITRATOR

Sherry R. Wetsch

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Sole Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument, which is my award.

Arbitrator's Signature

Sherry R. Wetsch

Sherry R. Wetsch
Sole Public Arbitrator

02/17/2021

Signature Date

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February 17, 2021

Date of Service (For FINRA Dispute Resolution Services use only)